



Loudoun County, Virginia

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Office of the County Administrator

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At a business meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Government Center, Board of Supervisors' Meeting Room, 1 Harrison St., S.E., Leesburg, Virginia, on Wednesday, April 3, 2013 at 4:00 p.m.

IN RE: TRANSPORTATION AND LAND USE COMMITTEE REPORT/
AMENDMENTS TO CHAPTER 1067 FOR ESTABLISHMENT, OPERATION AND
MAINTENANCE OF THE NON-CONVENTIONAL ON-SITE SEWAGE DISPOSAL
SYSTEM

Mr. Buona moved that the Board of Supervisors adopt the proposed amendment to Chapter 1067 as contained in Attachment 1 and the proposed change in reporting fee structure with an effective date of April 4, 2013.

Seconded by Mrs. Volpe.

Voting on the Motion: Supervisors Buona, Delgaudio, Higgins, Letourneau, Reid, Volpe, Williams and York – Yes; None – No; Supervisor Clarke – Absent for the Vote.

DEPUTY CLERK FOR THE LOUDOUN
COUNTY BOARD OF SUPERVISORS

CHAPTER 1067

~~Establishment, Operation and Maintenance of Non-Conventional~~

~~Inspection of Alternative On-Site~~ Onsite Sewage Disposal Systems and Establishment of Alternative Discharging Sewage Systems

1067.01 Intent.

1067.02 Definitions.

~~1067.03 Limitation on the use of non-conventional systems.~~

~~1067.04 Maintenance of non-conventional systems under permits issued after effective date of chapter.~~

1067.03 Limitations on the use of alternative discharging sewage systems

~~1067.045 Maintenance of non-conventional systems under permits issued prior to effective date of chapter.~~ Alternative onsite sewage system owner responsibilities

1067.056 Enforcement and penalties.

CROSS REFERENCES

Code of Va. §§ 15.2-1200, 15.2-2157

1067.01 INTENT.

(a) The intent of this chapter is to protect water quality and water supplies; prevent the contraction or spread of infectious, contagious and dangerous diseases; prevent the spread of failing ~~non-conventional~~ alternative onsite sewage ~~disposal~~ systems; and otherwise further the health, safety, morals and general welfare of the citizens of Loudoun County. Pursuant to these goals, the Board of Supervisors hereby exercises its power, as granted by § 15.2-2157 ~~VA Code Ann. of the Code of Virginia, as amended,~~ to regulate onsite sewage systems.

(b) The provisions of this chapter are in addition to the requirements of Chapter 1066 of the Codified Ordinances and are intended to implement the regulations of the State Board of Health regarding alternative onsite sewage systems. To the extent that any provision of Chapter 1067 conflicts with any other provision of State, or local law, the more stringent provision shall apply; provided, however that, to the extent that any provision of Chapter 1067 is deemed to be additional to or more stringent than the requirements and standards for alternative onsite sewage systems of the State Board of Health, then the said State requirements and standards shall apply if (i) sewers or sewerage disposal facilities are not available in the area of the subject property, and (ii) the alternative onsite sewage system used or to be used on the subject site has been approved by the Virginia Department of Health for use in the particular circumstances and conditions in which it is to be operating.

(Ord. 08-13. Passed 11-3-08.)

1067.02 DEFINITIONS.

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

- (a) "Alternative onsite sewage system" shall mean a treatment works that is not a conventional onsite sewage system or an alternative discharging sewage system.
- (b)(a) "Alternative discharging sewage system" shall mean any device or system which results in a point source discharge of treated sewage for which the State Board of Health may issue a permit authorizing construction and operation when such system is regulated by the State Water Control Board pursuant to a general Virginia Pollutant Discharge Elimination System permit issued for an individual single family dwelling with flows less than or equal to 1,000 gallons per day.
- (c)(b) "Conventional onsite sewage disposal system" shall mean a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield, intended to serve one or more uses on a single parcel, and not maintained by a public entity.
- (d)(e) "Health eOfficer" shall mean the Director of the Loudoun County Health Department or his designee.
- (d) ~~"Non conventional onsite sewage disposal system" shall mean a treatment works that is not a conventional onsite sewage disposal system or an alternative~~

~~discharging sewage system. The term does not include (1) any communal system serving three or more lots or users and approved in conformance with any applicable Federal, State and local regulations, or (2) any treatment works maintained by a public entity.~~

- ~~(e) "Public groundwater supply source" shall mean a well, spring or other groundwater source that is owned by a public utility and is currently utilized as a water supply for domestic, agricultural, industrial or other beneficial purposes. The term shall exclude any source utilized as a water supply for a transient or other non-community water system.~~
 - ~~(f) "Source water protection area" shall mean an area within 250 feet of a public groundwater supply source, established by a public utility to protect such source.~~
 - ~~(g) "Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.~~
- (Ord. 08-13. Passed 11-3-08.)

~~1067.03 — LIMITATION ON THE USE OF NON-CONVENTIONAL SYSTEMS.~~

~~The provisions of this Section 1067.03 shall expire five years from the date of adoption; provided, however, that the Board of Supervisors may make this section applicable for a further term, or indefinitely, by readopting or amending it.~~

~~The approval and permitting of non-conventional onsite sewage disposal systems is prohibited in Loudoun County, with the following exceptions:~~

- ~~(a) Any non-conventional onsite sewage disposal system which was installed prior to the effective date of this chapter under a permit issued by the Loudoun County Health Department;~~
- ~~(b) Any proposed non-conventional onsite sewage disposal system which is the subject of a valid, unexpired permit from the Loudoun County Health Department issued prior to the effective date of this chapter, but which has not been installed as of the effective date of this chapter;~~
- ~~(c) A non-conventional onsite sewage disposal system replacing a failing onsite sewage disposal system or a privy, where no other alternative is reasonably practicable;~~
- ~~(d) A habitable building that has been destroyed by circumstances beyond the control of the owner or occupant of the building that was previously served by a non-conventional onsite sewage disposal system, provided that said system must be installed within three years from the date of issuance of the certification letter;~~
- ~~(e) A building which is eligible to be on the Virginia Landmarks Register or the National Register of Historic Places or is eligible to be a contributing landmark in a historic district listed in the Virginia Landmarks Register or the National Register of Historic Places, so as to ensure that historic landmarks are not destroyed or rendered unusable by lack of sewage disposal;~~
- ~~(f) A public building or facility; or~~

- ~~_____ (g) Any onsite sewage disposal system site approved by the Loudoun County Health Department prior to the effective date of this chapter by (i) a Sewage Disposal System Construction Permit; (ii) a Health Department Certification Letter; or (iii) a written approval from the Loudoun County Health Department to satisfy subdivision submission or review requirements, where either:~~
 - ~~_____ (1) A non-conventional onsite sewage disposal system was specified for use on the approved site; or~~
 - ~~_____ (2) A non-conventional onsite sewage disposal system is required for the approved site in order to comply with changes to the separation distances between systems using naturally occurring undisturbed soils and limiting site factors as described in the Sewage Handling and Disposal Regulations, which changes were effective after the approval of the site for a conventional system.~~
- ~~_____ (h) A non-conventional onsite sewage disposal system for a special exception use approved prior to the effective date of this chapter, where no other alternative is reasonably practicable to serve the specific project approved by that special exception.~~
- ~~_____ (Ord. 08-13. Passed 11-3-08.)~~

~~1067.04 MAINTENANCE OF NON-CONVENTIONAL SYSTEMS UNDER PERMITS ISSUED AFTER EFFECTIVE DATE OF CHAPTER.~~

~~_____ Any non-conventional onsite sewage disposal systems permitted under the provisions of Section 1067.03 after the effective date of this chapter, must comply with the following conditions and requirements:~~

- ~~_____ (a) The installation and operation of any non-conventional sewage disposal system must be approved by the Health Officer as compliant with this section and the applicable regulations of the Virginia Department of Health.~~
- ~~_____ (b) Prior to the installation and operation of any non-conventional sewage disposal system, an agreement, in a form approved by the County Attorney and executed by the Health Officer and the property owner, must be recorded in the land records of the office of the Clerk of the Circuit Court of Loudoun County. Such agreement shall, at a minimum:~~
 - ~~_____ (1) Permit the installation and operation of such non-conventional sewage disposal system;~~
 - ~~_____ (2) Provide notice to the public, including, without limitation, subsequent owners of the property, that the property is served by a non-conventional sewage disposal system;~~
 - ~~_____ (3) Impose installation, operation and maintenance conditions determined by the Health Officer or the Board of Supervisors, as applicable, based on the maintenance requirements of such system, including, without limitation, a requirement for a maintenance contract or professional operator;~~
 - ~~_____ (4) Require the property owner annually on the anniversary date of such agreement to procure an inspection to ensure such system continues to operate as designed and in accordance with this section and such agreement, which inspection shall be performed by an individual;~~

- ~~_____ A. Licensed by the Virginia Department of Professional and Occupational Regulation or certified by the Virginia Department of Health as an authorized onsite soil evaluator;~~
- ~~_____ B. Licensed by the Virginia Department of Professional and Occupational Regulation as a professional engineer;~~
- ~~_____ C. Qualified as an accredited septic system inspector, as such term is defined in Title 59.1, Chapter 24.2 of the Code of Virginia (1950), as amended; or~~
- ~~_____ D. Employed by the system manufacturer or designated by the system manufacturer as an authorized service provider, as demonstrated by evidence acceptable to the Health Officer.~~
- ~~_____ (5) Require the property owner annually, within 30 days of the anniversary date of such agreement, or such longer period as may be permitted by the Health Officer, to file with the Health Officer a copy of the inspection report, in a form approved by the Health Officer, and to repair or replace such system, as necessary, to correct any deficiencies identified in the inspection report in compliance with this section and the applicable regulations of the Virginia Department of Health;~~
- ~~_____ (6) Require the property owner to obtain approval of any modifications, alterations, and expansions of such system from the Health Officer;~~
- ~~_____ (7) Provide that in the event of the failure of such system, as determined by the Health Officer, the repair or replacement of such system shall be subject to the applicable regulations of the Virginia Department of Health or the State Water Control Board, to the extent such regulations are not inconsistent with this section and such agreement;~~
- ~~_____ (8) Permit the Health Officer to enter the property to inspect such system and to determine whether such system is installed, operated and maintained in accordance with this section and such agreement;~~
- ~~_____ (9) Provide that the property owner's obligations under such agreement shall run with the land and bind the property owner, and the property owner's heirs, personal representatives, successors and assigns;~~
- ~~_____ (10) Permit the termination of such agreement, and the revocation of the authorization under this section of the installation and operation of such system, in the event the property owner fails to cause the continued operation of such system, as designed and in accordance with this section and such agreement; and~~
- ~~_____ (11) Provide that failure to comply with the terms of the agreement are violations of this chapter subject to the penalties and other remedies provided herein.~~
- ~~_____ (c) No non-conventional onsite sewage disposal system shall be permitted within a source water protection area unless the Virginia Department of Health determines that an existing sewage system serving an occupied structure has failed and cannot be repaired or replaced by a conventional onsite sewage system, and that the only available means of providing sewage disposal to such dwelling is by a non-conventional onsite sewage disposal system.~~

1067.03 LIMITATIONS ON THE USE OF ALTERNATIVE DISCHARGING
SEWAGE SYSTEMS

- (d) No alternative discharging sewage system shall be permitted unless the Virginia Department of Health determines that an existing sewage system serving an occupied structure has failed and cannot be repaired or replaced by a conventional onsite sewage disposal system or alternative non-conventional onsite sewage disposal system, and that the only available means of providing sewage disposal to such dwelling is by an alternative discharging sewage system.
- (e) ~~Pursuant to the agreement required under Section 1067.04(b) above, the Health Officer may enter any property served by a non-conventional onsite sewage disposal system to inspect such system and to determine whether such system is installed, operated and maintained in accordance with this section and such agreement.~~
- (Ord. 08-13. Passed 11-3-08.)

1067.045 ALTERNATIVE ONSITE SEWAGE SYSTEM OWNER
RESPONSIBILITIES MAINTENANCE OF NON CONVENTIONAL
SYSTEMS UNDER PERMITS ISSUED PRIOR TO EFFECTIVE DATE
OF CHAPTER.

For an alternative non-conventional onsite sewage disposal system approved prior to the effective date of this chapter, the property owner is required to comply with the following maintenance-responsibilities:

- (a) Procure an annual inspection to ensure such system continues to operate as designed and in accordance with this section and the applicable regulations of the State Board of Health, which inspection shall be performed by an individual: licensed by the Virginia Department of Professional and Occupational Regulation as an alternative onsite sewage system operator.
- (1) ~~Licensed by the Virginia Department of Professional and Occupational Regulation or certified by the Virginia Department of Health as an authorized onsite soil evaluator;~~
- (2) ~~Licensed by the Virginia Department of Professional and Occupational Regulation as a professional engineer;~~
- (3) ~~Qualified as an accredited septic system inspector, as such term is defined in Title 59.1, Chapter 24.2 of the Code of Virginia (1950), as amended; or~~
- (4) ~~Employed by the system manufacturer or designated by the system manufacturer as an authorized service provider, as demonstrated by evidence acceptable to the Health Officer.~~
- (b) File with the Health Officer no later than July 1 of each calendar year a copy of the completed inspection report, in a form approved by the Health Officer, and to repair or replace such system, as necessary, to correct any deficiencies identified in the inspection report in compliance with this section and the applicable regulations of the ~~Virginia Department~~ State Board of Health. Such inspection shall include an examination of all system components.

- (c) Make modifications, alterations, and expansions of such system only with the approval of the Health Officer, ~~and in compliance with Section 1067.04 of this chapter.~~
- (d) In the event of the failure of such system, as determined by the Health Officer, repair or replace such system in compliance with the applicable regulations of the ~~Virginia Department~~State Board of Health or the State Water Control Board ~~and Loudoun County, and the provisions of Section 1067.04 of this chapter.~~
- (e) Permit the Health Officer to enter the property to inspect such system and to determine whether such system is installed, operated and maintained in accordance with this section and the regulations of the ~~Virginia Department~~State Board of Health.

The provisions of this Section 1067.04~~5~~ shall apply to any owner of any alternative non-conventional onsite sewage disposal system who has been notified by the ~~County Health Officer~~ or a department, agency or official of the Loudoun County ~~of Loudoun~~ of his maintenance responsibility for such systems.

(Ord. 08-13. Passed 11-3-08.)

1067.05~~6~~ ENFORCEMENT AND PENALTIES.

(a) The owner of property on which is located an alternative non-conventional onsite sewage disposal system is subject to civil penalties for violations of Sections 1067.04 and 1067.05 of this chapter, as follows:

- (1) ~~Failure to procure an annual inspection report in accordance with Section 1067.04(b)(4) or Section 1067.05(a) - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.~~
- (12) Failure to procure and file an annual inspection report in accordance with Section 1067.04(a) and (b)(5) ~~or Section 1067.05(b)~~ - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.
- (23) Failure to correct system deficiencies that jeopardize system performance or public safety in accordance with Section 1067.04(b) - one hundred dollars (\$100) for an initial summons and one hundred fifty dollars (\$150) for each additional summons.
- (3) Failure to obtain the approval of the Health Officer for any modification, alteration ~~or~~ expansion of such system in accordance with Section 1067.04(c)(b)(6) ~~or Section 1067.05(e)~~ - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.
- (4) Failure to repair or replace a failing system in accordance with Section 1067.04(d)(b)(7) ~~or Section 1067.05(d)~~ - one hundred dollars (\$100.00) for an initial summons and one hundred fifty dollars (\$150.00) for each additional summons.

Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations

arising from the same operative set of facts shall not result in civil penalties exceeding a total of three thousand dollars (\$3,000). If the violation is not abated after the imposition of the maximum fine, the locality may pursue other remedies as provided by law. Designation of these particular ordinance violations for a civil penalty are in lieu of criminal penalties, except for any violation that contributes to or is likely to contribute to the pollution of public or private water supplies or the contraction or spread of infectious, contagious, and dangerous diseases.

The Health Officer may issue a civil summons ticket as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the Treasurer of Loudoun County, Virginia, prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation, the locality shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding.

(b) Except as otherwise provided in this section, whoever violates any provision of this ordinance is subject to the General Code Penalty provisions in Section 202.99 of the Codified Ordinances of Loudoun County.

(c) In addition to the enforcement of the penalties provided in this section, the Health Officer may bring a civil action for injunction, abatement or any other legal or equitable remedy to prevent, enjoin, abate or remove a violation of the provisions of this chapter, ~~or any agreement under Section 1067.04.~~

(Ord. 08-13. Passed 11-3-08.)